

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

GERARDO BUENTELLO, #1354410 §
VS. § CIVIL ACTION NO. 6:15cv780
OFFICER RAYFORD, ET AL. §

MEMORANDUM OPINION ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

Plaintiff Gerrado Buentello, an inmate confined at the Polunsky Unit within the Texas Department of Justice proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. The complaint was referred for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On March 14, 2018, the Magistrate Judge issued a Report, (Dkt. # 25), recommending that Defendant Rayford's motion to dismiss, (Dkt. # 20), be granted and that Buentello's claims be dismissed with prejudice. A copy of this Report was sent to Buentello at his address; return receipt requested. The docket shows that Buentello received a copy of the Report on March 26, 2018. However, to date, no objections to the Report have been filed. While Buentello filed a letter to the Court in late May 2018, he never once mentioned the substance of the Report; instead, he simply states that he does not "understand what to do" with his case because another inmate who was helping him was transferred to another prison unit. Because his letter does not address the substance of the Report, the Court declines to construe the letter as objections.

Accordingly, Buentello is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from

appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the Magistrate Judge, (Dkt. # 25), is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Defendant's motion to dismiss, (Dkt.# 20), is **GRANTED**. Moreover, it is

ORDERED that Plaintiff's civil rights complaint is **DISMISSED** with prejudice. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **29** day of **July, 2018**.



Ron Clark, United States District Judge